IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 221 OF 1985

FEDERAL BANK LTD. .. PLAINTIFF

V/S

ANANTRAI B. MEHTA .. DEFENDANTS

Anil Menon for plaintiffs.

CORAM: S.K.SHAH,J.

DATE : 8th March, 2007

P.C.

1. The defendant has filed the written statement. In view thereof the issues were framed.

2. Thereafter, however, neither the defendant appeared nor his counsel appeared. Even today neither the defendant nor his counsel is present.

3. Plaintiff filed the affidavit of evidence and the documents in support thereof.

4. It is the case of the plaintiff that the defendant has taken two letters of credit, being No. BOM/1422/79 for Swiss France equivalent to Rs. 2,14,646.46

favouring M/s. Constrate Watch and another letter of credit was bearing No. BOM/1423/79 for Swiss France 1,00,000 equivalent to Rs. 5,05,050=00 favouring Solman Watches Limited, Switzerland for import of watch parts/movements under Open General Licences. Accordingly two separate loan accounts were opened. The defendant had confirmed the balance dues on him on 27-12-81. Agreements were also executed on 28-5-1979 for two loan accounts. Since the defendant failed to clear the credit taken by him the suit has been filed based on the documents including the statement of account of the defendant being account No. 4/79. The certified extracts are produced at page 20 and 21 of the compilation of documents. This shows that the amount of Rs.2,02,519.60 due on one account and Rs. 4,29,083.90 is due on other account as on 20-12-1984. Since these balances were not cleared even after demands were made by plaintiff's advocate's letter dated 10-2-1983, the suit was filed for recovery of the same. The defendant has contended that the plaintiff had obtained his signature on blank documents and the memo of confirmation of balance was incorrect and that the plaintiff was in possession of certain imported goods imported under L.C. which the plaintiff has failed and

neglected to sell and realise the best possible price and plaintiff having failed to do so the said goods or the quality thereof has totally deteriorated and destroyed.

5. However, the plaintiff have filed affidavit of evidence of Chief Manager of the plaintiff’s bank as also various documents including the statement of account to prove the claim.

6. In view thereof, the following issues were framed:-

1) Whether the defendant proves that at the timeof opening Letter of Credit, plaintiff had obtained blank signed documents from the defendant?

2) Whether the defendant proves that the contents of the Letter of credit, plaintiff had obtained blank signed documents from the defendant?

3) Whether the defendant proves that the plaintiffs were obliged to sell the pledged goods and that due to the

failure to sell the pledged goods, the quality of the said goods deteriorated causing loss to the defendant?

: 4 :

4) Whether the plaintiff proves that they are entitled to claim Rs. 6,31,603.50 from the defendant and recover interest @20%, if not at what rate?

7. The defendant has not examined anybody to prove the contentions raised by him. As such the Issue No. 1, 2 and 3 are answered in the negative and Issue No. 4 in the affirmative.

8. The plaintiffs are entitled to recover from the defendant a total sum of Rs. 6,31,603.50 with future interest. Hence the order :-

ORDER

1. The defendant shall pay to the plaintiff Rs. 6,31,603.50 with interest @ 12% per annum from the date of the suit till the realisation of the full amount.

2. The suit be decreed in terms of prayer clause (c) and (d).

3. The defendant shall also pay the costs of the suit.

4. The decree be drawn accordingly.

(S.K. SHAH, J.)